

**MINUTES  
BOARD OF ADJUSTMENT  
THURSDAY, September 7, 2017  
HOOD ROOM, MATTHEWS TOWN HALL**

**PRESENT:** Chairman Jim Jiles; Vice Chairman Jerry Meek; Members Jeanne Moore and Cecil Sumners; Alternate Members Peter Tuz, and Steven Lee; Attorney Robert Blythe; Senior Planner Jay Camp; Administrative Assistant/Deputy Town Clerk Shana Robertson

**ABSENT:** Member Jim Mortimer; Alternate Member Gary Smith

**CALL TO ORDER/INVOCATION:**

Chairman Jim Jiles called the meeting to order at 7:05 pm and added that Alternate Member Steven Lee would need to be appointed as a voting member for the night's meeting.

Mr. Lee gave the invocation.

**APPROVAL OF THE MINUTES:**

Jeanne Moore made a motion to approve the minutes of the August 3, 2017 meeting. Jerry Meek seconded and the motion passed unanimously.

**SWEARING IN:**

Senior Planner Jay Camp and Suzanne McDade were sworn in by Mr. Jiles.

**VARIANCE REQUEST: BA 2017-5, Budd Law Group at 352 E Charles Street**

**STAFF REPORT:**

Mr. Camp reviewed the previously approved variance case in conjunction with a rezoning in November 2016. He updated the Board that once the project was finalized and was turned over to an engineering firm it was discovered that the CSX Railway right-of-way was incorrectly depicted on the site plan. Mr. Camp said that an Administrative Amendment was approved to the conditional site plan by Planning Board but was conditional on the Board of Adjustment granting a Variance on the new site plan presented. The new site plan was presented to the Board by Mr. Camp. He said the railway right-of-way pushes entire site back. That would push the detached garage back to the forty foot setback line that would still meet town code. Mr. Camp added that the only other change to the site plan was the placement of the garage to be beside the parking spaces to meet the setbacks of the rear yard. Mr. Camp said there is a maximum setback in the Downtown overlay of twenty-nine feet and due to the railway right-of-way the lot would be completely unbuildable without a variance being granted.

Mr. Jiles clarified that the changes made were because of the railroad right-of-way. Mr. Camp said that the need variance is even more as it is twelve feet and eleven inches more than what was needed last time. Mr. Camp said the lot was unbuildable in November 2016 without a variance and today it is even more now that the true location of the right-of-way is corrected.

Mr. Meek said that it would be the same facts that supported the first variance and Mr. Camp said that it would be identical and the site plan was unchanged besides the minor change to the garage placement. He added that all other variances granted in November 2016 were also unchanged.

Suzanne McDade of Mosley Architects, 11430 North Community House Road, Suite 225, Charlotte, NC, addressed the board and was available for questions.

Mr. Meek asked what the applicant was requesting and Mr. Camp said that the motion in November 2016 allowed a three foot allowance from the railroad right-of-way and minutes were available from the November 2016 approval.

Mr. Jiles asked is twenty-nine feet was what the Unified Development Ordinance required. Mr. Camp said that with the Downtown Overlay the maximum build to line is twenty-nine feet from the back of the curb.

**DELIBERATION:**

Mr. Meek said that the motion to approve last time was contingent on the site plan that was presented to the Board and that contingency was being altered.

Mr. Jiles said that the findings of fact in the minutes that were approved December 1, 2016 remain true.

Mr. Meek motioned to extend the maximum front setback to no more than three feet beyond the revised site plan showing the correct CSX right-of-way. Ms. Moore seconded the motion and it passed unanimously.

**FINDINGS OF FACT**

1. Unnecessary hardship would result from the strict application of this Title. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

It is the determination of The Town of Matthews Board of the existence of the CSX right of way and the property cannot be redeveloped and meet the maximum build-to line causing unnecessary hardship.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. (Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.)

The hardship results from the nature of the property and in particular to the CSX right of way.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

The hardship did not result from actions taken by the applicant.

4. The requested variance is consistent with the spirit, purpose, and intent of the Title, because public safety is secured and justice is achieved.

The requested variance is consistent with the spirit, purpose, and intent of the Town of Matthews Unified Development Ordinance.

Mr. Meek made a motion to adjourn the meeting at 7:25 pm. Mr. Sumners seconded the motion and the motion passed unanimously.

Respectfully submitted,



Shana Robertson  
Administrative Assistant/Deputy Town Clerk

**APPROVED**  
**10/05/2017**